

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 591

Introduced by Assembly Member De La Torre

February 25, 2009

An act to ~~amend Section 754 of~~ *add Section 1385.5 to the Health and Safety Code, and to amend Section 754 of, and to add Section 10113.96 to, the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 591, as amended, De La Torre. ~~Referral fees. Insurance: referral fees: health plans and insurance: filings.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.

This bill would require health care service plans and health insurers to annually file with the Director of the Department of Managed Health Care or the Insurance Commissioner a list of their plan contracts or health insurance policies offered, issued, or outstanding in this state in the previous calendar year, including the form number and marketing name for those contracts or policies. The bill would require the departments to use those form numbers and marketing names when tracking the associated plans and contracts or insurers and policies.

Because a willful violation of the bill's requirements with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

Under existing law, it is unlawful for a person to solicit, receive, offer, or pay a referral fee for the referral of an individual for the furnishing of services or goods for which the person knows or should have known that whole or partial reimbursement is or may be made by an insurer. Existing law makes a violation of those provisions a misdemeanor, punishable by a fine not to exceed \$1,000 for each violation.

This bill would increase that penalty to \$5,000 for each violation. ~~By increasing the penalties for a crime, the bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 1385.5 is added to the Health and Safety*
- 2 *Code, to read:*
- 3 1385.5. (a) *A health care service plan shall, by June 30 of*
- 4 *each year, file with the department a list of its plan contracts*
- 5 *offered or issued or outstanding in this state as of the end of the*
- 6 *previous calendar year. This list shall identify each type of contract*
- 7 *by form number and marketing name, if used.*
- 8 (b) *The department shall use the form number and marketing*
- 9 *name provided pursuant to subdivision (a) when tracking the*
- 10 *associated health care service plan contract or health care service*
- 11 *plan under this chapter.*
- 12 (c) *The filing required by this section shall be in addition to the*
- 13 *annual filing required under Section 1358.225.*
- 14 ~~**SECTION 1.**~~
- 15 **SEC. 2.** *Section 754 of the Insurance Code is amended to read:*
- 16 754. (a) *It is unlawful for any person to solicit, receive, offer,*
- 17 *or pay any referral fee for the referral of an individual for the*
- 18 *furnishing of services or goods for which the person knows or*
- 19 *should have known that whole or partial reimbursement is or may*
- 20 *be made, directly or indirectly, by any insurer. As used in this*

1 section, a referral fee is a fee paid by a person furnishing goods
2 or services to another in return for the referral of an individual to
3 that person for the furnishing of services or goods. It includes any
4 referral fee, kickback, bribe, or rebate, whether made directly or
5 indirectly, overtly or covertly, or in cash or in kind. This
6 subdivision does not apply to any of the following:

7 (1) Discounts or similar reductions in prices.

8 (2) Referral fees between attorneys if legal services are provided
9 pursuant to a contingency fee arrangement if any referral fee is
10 consistent with the Rules of Professional Conduct of the State Bar
11 of California.

12 (b) This section applies to all forms of insurance covering a
13 motor vehicle, including commercial and personal lines, and
14 comprehensive coverage, property damage coverage, collision
15 coverage, and liability coverage.

16 (c) A violation of this section is a misdemeanor punishable by
17 a fine not to exceed five thousand dollars (\$5,000) for each
18 violation. Proceedings to enforce this section may be brought by
19 any district attorney or other prosecuting attorney.

20 *SEC. 3. Section 10113.96 is added to the Insurance Code, to*
21 *read:*

22 *10113.96. (a) A health insurer shall, by June 30 of each year,*
23 *file with the commissioner a list of its health insurance policies*
24 *offered or issued or outstanding in this state as of the end of the*
25 *previous calendar year. This list shall identify each type of policy*
26 *by form number and marketing name, if used.*

27 *(b) The department shall use the form number and marketing*
28 *name provided pursuant to subdivision (a) when tracking the*
29 *associated health insurance policy or health insurer under this*
30 *part.*

31 *(c) The filing required by this section shall be in addition to the*
32 *annual filing required under Section 10192.13.*

33 *SEC. 4. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district will be incurred because this act creates a new crime or*
37 *infraction, eliminates a crime or infraction, or changes the penalty*
38 *for a crime or infraction, within the meaning of Section 17556 of*
39 *the Government Code, or changes the definition of a crime within*

- 1 *the meaning of Section 6 of Article XIII B of the California*
- 2 *Constitution.*

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